

CIA INTERNAL USE ONLY

8 February 1957

MEMORANDUM FOR THE RECORD

SUBJECT: Reimbursement to GPO ^{for} Window Fan and Air Conditioning
Equipment Located in CIA Administration Building
Printing Plant

AT 1. [] Chief, Printing Services Division, requested today Office of General Counsel opinion on the appropriateness of reimbursing the GPO for certain air conditioning and allied equipment now located in the basement of the Administration Building as part of the Printing Plant recently transferred from GPO to CIA.

2. The proposal by the Director of Central Intelligence Agency in his letter of 19 November 1956, to The Public Printer stated that equipment listed on Annex C "shall be transferred to the Central Intelligence Agency and the Central Intelligence Agency shall reimburse the Government Printing Office." Some [] worth of equipment is involved. By letter dated 5 December 1956, to the Director of Central Intelligence, The Public Printer concurred in the proposed transfer. By letter of 15 December 1956, the Director of Central Intelligence requested approval of the Joint Committee on Printing of the Congress and by letter of 4 January 1957, that approval was given "contingent upon the complete observance of all the conditions set forth and agreed to, respectively, in your letter of November 19, 1956 to The Public Printer and his reply of December 5, 1956." As a result of the foregoing negotiations, the GPO-State Service Printing Plant was transferred to CIA on 13 January 1957. ST

AT 3. [] advises me that at the time the various property schedules were drawn up it was recognized that it might be inappropriate for CIA to reimburse the GPO for fans and air conditioning equipment listed on reimbursable Annex C. However, because of the delicacy of these negotiations it was believed desirable at this time to let this matter remain dormant.

4. The present problem is to determine whether reimbursement for this equipment is legally possible. The applicable statute is 40 USC 317 which states in part " ... All ... air conditioning equipment procured by a Federal activity ... , and which are now, or may hereafter be, installed in Government-owned ... buildings in the District of Columbia

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and area adjacent thereto, operated by the Administrator of General Services, shall be and remain in the custody and under the control of said Administrator without exchange of funds and irrespective of the appropriations from which such items were procured or the source from which they were obtained, and existing appropriations ... shall not be available for the purchase or installation of the equipment enumerated herein in such buildings" There are no published decisions of the Comptroller General interpreting this statute and telephonic inquiry to the GAO has indicated that there are no unpublished decisions in point.

5. I have been advised by [] Space Maintenance Branch, RE&CD, Office of Logistics, that the printing plant ~~already~~ in the basement of the Administration Building has been and is ~~already~~ operated ~~ing~~ by the Administrator of General Services. Mr. Kress is now investigating in order to verify his impression that the fans and air conditioning equipment in the Printing Plant have been and are now under the custody of the General Services Administration. ST

6. If the General Services Administration is the present custodian of this equipment, the legal situation would appear to be as follows. By virtue of 40 USC 317 this equipment passed out of the custody of GPO at the time of its installation ~~if~~, in fact, it was not in the custody of GSA from the time of its purchase. Hence, in spite of its being listed on Annex C, CIA is not required to reimburse GPO for property which GPO is unable to transfer to CIA. Furthermore, 40 USC 317 expressly forbids the use of appropriations for such purchases unless specifically earmarked for this purpose. It is believed that no CIA appropriations are so earmarked.

delicacy 7. If the question of reimbursement for this property is a matter of ~~fact~~ in inter-agency relationships, and if it is not possible to settle the matter at the working level on terms which do not require reimbursement, it is suggested that the following face-saving course be considered. Central Intelligence Agency may assure GPO of our willingness to make such reimbursement but in view of the question raised by 40 USC 317 and in view of the fact that such an expenditure by CIA ~~would~~ be *might* refused by the General Accounting Office, CIA, as a stake holder, will request the General Accounting Office to advise the parties as to the legality of such reimbursement.

8. It has been intimated that GPO might cite the letter from the Joint Committee on Printing as authorizing ~~the~~ exception to 40 USC 317. The answer to this argument appears to be simply that the action of a

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committee of the Congress may not be used as justification for an apparent disregard of the directive of the entire Congress embodied in a statute.

ST

9. The foregoing views have been communicated by me to [redacted]
We are now awaiting the factual data to be developed by [redacted]

ST

ST

[redacted]
Assistant General Counsel

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C.R. Egan Supp.

OGC/[redacted] (8 Feb 57)

AT

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)				
Reimbursement to GPO of Window Fan and Air Conditioning Equipment ...				
FROM:			NO.	
Assistant General Counsel			DATE	<i>C. Gump & Dr. P. - 2.</i>
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
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1. Office of General Counsel			<i>CG</i>	<p><i>I did not have this retyped as our secretary is out sick. not</i></p> <p><i>Joan:</i></p> <p><i>I have returned the "subject" file copy as it goes in the New Bldg material. not</i></p>
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